

THE HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

KIMBERLY MILLER, BRIANA HOUSER, and
DEAN BUCHHOLZ, on behalf of themselves
and on behalf of others similarly situated,

Plaintiffs,

v.

P.S.C., INC., d/b/a PUGET SOUND
COLLECTIONS, and DOES ONE THROUGH
TEN,

Defendants.

NO. 3:17-cv-05864-RBL

**FINAL APPROVAL ORDER AND
FINAL JUDGMENT**

This matter came before the Court upon consideration of Plaintiffs' Motion for Final Approval of Class Action Settlement and Class Counsel's Motion for an Award of Fees, Costs, and Class Representative Statutory and Service Awards. After considering the motions and the declarations and exhibits submitted with the motions, the Court enters this Final Approval Order and Judgment ("Final Approval Order"), which constitutes a final adjudication on the merits of all claims of the Class and Sub-Class. It is HEREBY ORDERED that the motions are GRANTED, the Settlement Agreement and Release ("Agreement") is finally approved, Class Counsel are awarded \$380,000.00 in fees and expenses, and each of the three Plaintiffs is awarded \$5,000.00 for statutory damages and service awards (\$15,000.00 total).

1 On September 10, 2019, the Court preliminarily approved the Agreement and directed
2 that notice be given to the Class (Dkt. #66). Pursuant to the notice requirements set forth in the
3 Agreement and Preliminary Approval Order, Class Members were notified of the terms of the
4 proposed Agreement, of their right to opt out, and of their right to object and be heard at a Final
5 Approval Hearing to determine whether the terms and conditions of the Agreement are fair,
6 reasonable, and adequate for the release of the claims contemplated by the Agreement; and
7 whether judgment should be entered dismissing this action with prejudice.

8 The Court has reviewed and considered all papers filed in support of and in opposition
9 to the settlement, and all exhibits thereto, and held a hearing after notice was sent to the Class
10 in order to confirm that the settlement is fair, reasonable, and adequate, and to determine
11 whether the Final Approval Order should be entered in this action pursuant to the terms and
12 conditions set forth in the Agreement ("Final Approval Hearing") on January 10, 2020 at
13 9:30am. At the Final Approval Hearing, the parties and all interested persons were heard in
14 support of and in opposition to the settlement.

15 NOW, THEREFORE, IT IS HEREBY ORDERED:

16 1. The Court has jurisdiction over the subject matter of this action and personal
17 jurisdiction over the parties and the Class. The definitions and provisions of the Agreement are
18 incorporated in this Order as though fully set forth herein.

19 2. In its class certification order, the Court certified the following Class:

20 All persons who returned to Defendants a signed "Stipulation Re
21 Balance Owed and For Judgment," or "Stipulated Judgment," or
22 substantially similar debt collection form, at any time since
September 18, 2013.

23 Dkt. #40 at 4. The Court determined that the Class satisfied all of the requirements of Rule
24 23(a) and 23(b)(3). *Id.* at 5-15. The Court reserved ruling on certification of the proposed
25 FDCPA Sub-Class, pending further briefing by the parties. *Id.* at 4, 7. The Court found that the
26 Sub-Class satisfied commonality, typicality, adequacy, predominance, and superiority, but
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1 reserved ruling on certification of the Sub-Class pending additional briefing on numerosity. *See*
2 Dkt. #5-15.

3 Pursuant to the terms of the Agreement, the Court modified the class definition in its
4 Preliminary Approval Order to include all persons against whom Defendant obtained a
5 judgment by filing one of the challenged forms within the four-year statute of limitations under
6 the Consumer Protection Act, as follows:

7 All persons who returned to Defendant a signed “Stipulation Re
8 Balance Owed and For Judgment” or “Stipulated Judgment,” or
9 substantially similar debt collection form, at any time since
10 September 18, 2013, and any person against whom Defendant
11 obtained a judgment by filing a “Stipulation Re Balance Owed
and For Judgment” and “Stipulated Judgment,” at any time since
September 18, 2013.

12 Dkt. #66 ¶ 3. In its Preliminary Approval Order, the Court also found that the FDCPA Sub-
13 Class satisfies numerosity and certified the following Sub-Class:

14 All persons in the Class whose alleged debt was incurred
15 primarily for personal, family, or household purposes and from
16 whom P.S.C. collected or attempted to collect a debt using a
17 “Stipulation Re Balance Owed and For Judgment” or “Stipulated
Judgment,” or substantially similar debt collection form, at any
time since September 18, 2016.

18 Dkt. No. 66 ¶ 3. The Court finds that the elements of numerosity, commonality, typicality,
19 adequacy, predominance, and superiority are satisfied for the Class and FDCPA Sub-Class.

20 3. The Court reaffirms its appointment of Kimberly Miller, Briana Houser, and
21 Dean Bucholz as Class Representatives (Dkt. #40 at 16), and the Terrell Marshall Law Group
22 and the Law Office of Joshua L. Turnham PLLC, as Class Counsel (*id.*).

23 4. The Court finds that the notice given to Class Members pursuant to the terms of
24 the Agreement fully and accurately informed Class Members of all material elements of the
25 settlement and constituted valid, sufficient, and due notice to all Class Members. The notice
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1 fully complied with due process, Rule 23 of the Federal Rules of Civil Procedure, and all other
2 applicable law.

3 5. The settlement requires P.S.C. to establish a Settlement Fund in the amount of
4 \$1,520,000 to be comprised of (a) \$275,000 in write-offs of the balances owed on Class
5 Member Accounts; and (b) \$1,245,000 in cash that the parties propose to use to make
6 payments to all Class Members with a deliverable address who did not timely exclude
7 themselves from the settlement (“Settlement Class Members”); pay the settlement
8 administrator the costs of notice and settlement administration expenses in an amount capped
9 at \$18,000; pay statutory damages and service awards in the amount of \$5,000.00 to each Class
10 Representative; and pay Class Counsel’s attorneys’ fees and expenses in the amount of
11 \$380,000.00. The Settlement Fund is non-reversionary and any amounts remaining in the
12 Settlement Fund after the deadline to cash checks has expired shall be disbursed to the Legal
13 Foundation of Washington and the Northwest Consumer Law Center, two non-profit
14 organizations dedicated to protecting Washington consumers, including victims of unfair debt
15 collection practices.

16 6. P.S.C. is ordered to comply with the non-monetary relief required by the
17 Settlement. P.S.C. shall no longer use collection-related forms that purport to permit entry of
18 judgment without first serving a summons and complaint or file the Stipulated Judgment forms
19 in any court in Washington. P.S.C. shall, within ten days of the Effective Date of this
20 settlement, cease all efforts to apply for writs of garnishment in any Pierce County Superior
21 Court case where it obtained a judgment against any Class Member Judgment Account without
22 having served the Class Member with a summons and complaint. And P.S.C. shall, within
23 ninety days of the Effective Date of this settlement, file partial or full satisfactions of judgment
24 reflecting the write-off allocations required under the Agreement. Finally, P.S.C. shall, within
25 thirty days of the Effective Date of this settlement, request the deletion of any tradeline it has
26 been reporting to any consumer reporting agency regarding any Class Member account.
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1 7. The Court finally approves the Agreement, including the plans for
2 implementation and distribution of the Settlement Fund, and finds that it is in all respects fair,
3 reasonable, adequate, and in the best interest of the Class Members and the result of extensive
4 arm's length negotiations. The parties dispute the validity of the claims in the action, and their
5 dispute underscores not only the uncertainty of the outcome but also why the Court finds the
6 Agreement to be fair, reasonable, and adequate. Had the parties continued to litigate, it is likely
7 that P.S.C. would have filed dispositive motions related to Class Members' claims. And Class
8 Members would have faced the risk and expense of trial, as well possible appeals of the
9 Court's class certification order and any other dispositive rulings. Class Counsel have reviewed
10 the Agreement and find it to be in the best interest of the Class. For all these reasons, the Court
11 finds that the uncertainties of continued litigation in both the trial and appellate courts, as well
12 as the expense associated with it, weigh in favor of settlement approval. In making this
13 determination, the court has considered the criteria set forth in the recently amended Federal
14 Rule of Civil Procedure 23, and the factors outlined in *Hanlon v. Chrysler Corp.*, 150 F.3d
15 1011, 1026 (9th Cir. 1998), and *Churchill Village, L.L.C. v. General Electric*, 361 F.3d 566,
16 575-76 (9th Cir. 2004).

17 8. The parties, their counsel, and the Class Administrator shall fulfill their
18 obligations and duties under the Agreement. The Agreement and every term and provision
19 thereof shall be deemed incorporated herein as if explicitly set forth and shall have the full
20 force of an order of this Court.

21 9. The Court dismisses with prejudice this action, the Released Claims, and the
22 Released Parties, and adjudges that the Released Claims are released against the Released
23 Parties.

24 10. The Court adjudges that Plaintiffs and the Settlement Class Members are
25 deemed to have fully, finally, completely, and forever released, relinquished, and discharged
26 the Released Claims against the Released Parties.
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1 11. Plaintiffs and the Settlement Class Members are permanently enjoined and
2 barred from asserting, initiating, prosecuting, or continuing any of the Released Claims against
3 the Released Parties.

4 12. The Class Administrator executed the Notice Plan according to the terms of the
5 Agreement. The notices apprised the Class Members of the pendency of the litigation; of all
6 material elements of the proposed settlement, including but not limited to the relief afforded
7 the Class under the Agreement; of the res judicata effect on members of the Class and of their
8 opportunity to object to, comment on, or opt out of, the settlement; of the identity of Class
9 Counsel and Class Counsel's contact information; and of the right to appear at the Final
10 Approval Hearing. The Notice Plan prescribed by the Agreement was reasonable and provided
11 due and adequate notice of these proceedings and of the matters set forth therein, including the
12 terms of the Agreement, to all parties entitled to such notice. The notice given to Class
13 Members satisfied the requirements of Federal Rule of Civil Procedure 23 and the
14 requirements of constitutional due process. The notices were reasonably calculated under the
15 circumstances to apprise Class Members of the pendency of this action, all material elements
16 of the settlement, and their opportunity to exclude themselves from, object to the settlement,
17 and appear at the final fairness hearing. The Court has afforded a full opportunity to all Class
18 Members to be heard. Accordingly, the Court determines that all Settlement Class Members
19 are bound by this Final Approval Order.

20 13. No Class Members opted out of the Class or filed objections.

21 14. All persons who have not made their objections to the settlement in the manner
22 provided in the Agreement are deemed to have waived any objections by appeal, collateral
23 attack, or otherwise.

24 15. Within the time period set forth in section III.2 of the Agreement, Settlement
25 Payments shall be issued to each Settlement Class Member under the terms of the Agreement.

1 16. The Court finds the number of hours expended by Class Counsel in this
2 litigation and Class Counsel's hourly rates to be reasonable and approves payment of
3 attorneys' fees and costs in the amount of \$380,000.00. This amount shall be taken out of the
4 Settlement Fund that is paid by P.S.C. pursuant to the terms of the Agreement. The Court finds
5 this amount to be appropriate and reasonable in light of the work performed by Class Counsel
6 and the benefits obtained by the Settlement Class Members. In addition, the Court finds that
7 the Agreement was negotiated at arm's length and without collusion.

8 17. The Court further grants Class Counsel's application for statutory damages and
9 service awards for Class Representatives Kimberly Miller, Briana Houser, and Dean Buchholz
10 in the amount of \$5,000.00 each. The Court finds this amount to be reasonable in light of the
11 service performed by the Class Representatives. This amount shall be paid from the Settlement
12 Fund in accordance with the terms of the Agreement.

13 18. Neither this This Final Approval Order and Judgment nor the Agreement is an
14 admission or concession by P.S.C. or any of the other Released Parties of the validity of any
15 claims or of any liability or wrongdoing or of any violation of law. Neither the Final Approval
16 Order nor the Agreement nor any related documents in this proceeding, nor any reports or
17 accounts thereof, shall be offered or received in evidence in any civil, criminal, or
18 administrative action or proceeding, other than such proceedings as may be necessary to
19 consummate or enforce this Final Approval Order, the Agreement, and all releases given
20 thereunder, or to establish the affirmative defenses of *res judicata* or collateral estoppel barring
21 the pursuit of claims released in the Agreement. This Final Approval Order also does not
22 constitute any opinion or position of the Court as to the merits of the claims and defenses
23 related to this action.

24 19. Upon the Effective Date, the Class Representatives and each Settlement Class
25 Member will be deemed to have completely released and forever discharged the Released
26 Parties from the Released Claims. Released Claims means any and all claims, causes of action,
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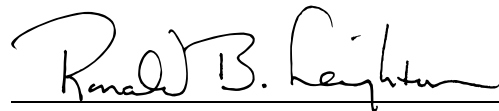
1 suits, obligations, debts, demands, agreements, promises, liabilities, damages, losses,
2 controversies, injunctive relief, costs, expenses, and attorneys' fees of any nature whatsoever,
3 whether known or unknown, suspected or unsuspected, asserted or unasserted, foreseen or
4 unforeseen, actual or contingent, liquidated or unliquidated, punitive or compensatory, that
5 were brought or that could have been brought in the action as of the date this Agreement is
6 executed, and that arise out of or relate to Defendant's debt collection efforts based on the
7 "Stipulation Re Balance Owed" and "Stipulated Judgment" forms, including, but not limited
8 to, claims based on a violation of the FDCPA, or Washington CAA or CPA, and any other
9 statutory, common law or equitable claim.

10 20. The Court retains jurisdiction to consider all further matters arising out of or
11 connected with the settlement, including the implementation and enforcement of the
12 Agreement.

13 21. The Court finds that no justifiable reason exists for delaying entry of this Final
14 Approval Order and, good cause appearing, it is expressly directed that this Final Approval
15 Order and separate Judgment be entered as final and appealable and the case dismissed with
16 prejudice.

17 IT IS SO ORDERED.

18 DATED this 10th day of January, 2020.

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21 Ronald B. Leighton
22 United States District Judge
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